

DEPARTMENT OF MILITARY AFFAIRS
STATE HUMAN RESOURCES
PRACTICE AND PROCEDURE MANUAL

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SUBJECT: Grievance Procedures

SECTION: Employment Relations

I. Overview

The State of Wisconsin has two different grievance procedures for state employees in the Department of Military Affairs; one for contesting an Adverse Employment Action and the other to grieve issues related to Conditions of Employment.

The procedures are different, including but not limited to variations in the number of steps, timelines, forms, etc. It is very important that employees carefully review this bulletin, and the references provided below, in preparation of filing a grievance. Employees are welcome to contact State Human Resources with questions when necessary.

II. Procedures to Grieve **Adverse Employment Actions**

- A. State of Wisconsin Human Resources Handbook (WHRH), [Chapter 430](#), is the authority and sole procedure for grieving the Adverse Employment Actions listed below. LTE's, project employees, and probationary employees are prohibited from filing grievances under these provisions. (Note: Employees who are not subject to one of the following five actions, but whom have an issue to grieve, should skip to Section III for procedures on grieving conditions of employment.)
 1. Demotion
 2. Layoff
 3. Suspension (including letters in lieu of suspension)
 4. Discharge
 5. Reduction in base pay
- B. Employees must complete and submit a [DOA-15802](#) (Adverse Employment Action Employee Grievance) form within 14 calendar days of the notice of the action being grieved.
- C. The form must be filed at Step 1 with the DMA State Human Resources (SHR) Director. This is a fillable form that can be emailed to the State Human Resources Director at DMASHRFeedback@wisconsin.gov with a subject line of "Grievance". This method is preferred and recommended to employees as the email will serve as a "date stamp" for grievance submission.
- D. Completed forms can also be printed and faxed to (608) 242-3168, attention HR Director, or mailed to: Department of Military Affairs, c/o State Human Resources, 2400 Wright Street, P.O. Box 14587, Madison, WI 53708.

- E. Employees who are filing a grievance contesting an adverse employment action are encouraged to read WHRH Chapter 430 in full for additional policy and procedures on provisions such as: non-grievable actions, appeal instructions (which are also present on the grievance form), right of representation, and use of paid work time for preparing and presenting a grievance.

III. Procedures to Grieve Conditions of Employment

- A. State of Wisconsin Administrative Code [ER-46](#) is the authority and sole procedure for grieving issues which affect a condition of employment, based on allegations of coercion, retaliation or abuse of discretion. It is recommended that employees carefully read the following procedures and reference ER-46 in preparation of filing such a grievance. LTE's are prohibited from filing grievances under these provisions.
- B. Employees must use the [DOA-15805](#) (Condition of Employment Employee Grievance Report) form. This form can be completed and saved electronically and emailed to employer representatives at each step in the following process. This method is highly recommended.
- C. Grievance Steps, Timelines, and Employer Representatives
1. Step 1. The grievance must be filed with the employee's first-line supervisor no later than 30 calendar days from the date the employee first became aware, or should have become aware, of the matter grieved.
 2. The first-line supervisor shall meet with the grievant to hear the grievance and deliver a written decision in the space provided on the DOA-15805 form within seven (7) calendar days of receipt of the grievance. Supervisors must consult with SHR prior to sustaining (i.e. approving) a grievance.
 3. Step 2. The employee may appeal a Step 1 decision, using the DOA-15805, and must do so within seven (7) calendar days from receipt of the Step 1 decision. Appeals to Step 2 must be submitted to the Base Commander, Administrator, Directorate Head, etc., level of the unit. See attached table for Step 2 employer representatives and additional methods for delivering a grievance, if email is not used.
 4. The Step 2 employer representative shall meet with the grievant to hear the grievance and deliver a written decision in the space provided on the DOA-15805 form within seven (7) calendar days of receipt of the grievance. Step 2 employer representatives must consult with SHR prior to sustaining (i.e. approving) a grievance.
 5. Step 3. The employee may appeal a Step 2 decision, using the DOA-15805, and must do so within seven (7) calendar days from receipt of the Step 2 decision. Appeals to Step 3 must be submitted to the State Human Resources Director, as provided under II.C and D above. The State Human Resources Director shall meet with the grievant to hear the grievance and deliver a written decision within 21 calendar days of receipt of the grievance.
- D. An employee may appeal a Step 3 decision to the Wisconsin Employment Relations Commission (WERC). Grievances to the WERC must be filed within 30 calendar days of receipt of the Step 3 decision or within 30 calendar days after the last day on which the employer could have served a timely decision. Chapters ERC [91](#) and [92](#), Wis. Adm. Code, identify the procedures for filing

appeals of Step 3 decisions with the WERC. Further information on the filing process can be found at <http://werc.wi.gov/>.

- E. Timeliness. A grievance or decision is considered timely if received during normal business hours or postmarked by 12:00 midnight on the due date.
1. The employer will reject any grievance or appeal not filed in accordance with the time limits.
 2. If a grievance is not answered by the employer at any step according to the time limits, the employee may proceed to the next step within seven (7) calendar days after the last day on which the employer could have served a timely decision for Step 2 and Step 3 and 30 calendar days for appealing to the WERC.
- F. Waivers. The grievant and employer may mutually agree to waive certain provisions, as provided below. All mutual agreements must be done in writing with documentation saved by both parties.
1. Time limits may be waived to accommodate conflicts in schedules. It is recommended that timelines are simply extended and new deadlines set so the grievance process is not delayed too long.
 2. The requirement for employer representatives and the grievant to meet in person may be waived, sometimes preferred by both parties when travel is involved. Mutual agreements to waive this provision are only allowed for Step 2 and Step 3 meetings. Step 1 meetings must always occur in person.
 3. Steps in the process may be waived to facilitate or expedite resolution. However, prior to doing so, the employer representatives at Step 1 and Step 2 must seek advance approval from the employer representatives responsible for subsequent steps. (I.e. first line supervisors must get approval from their Commander to waive Step 1, Commander must get approval from SHR Director to waive Step 2.)
- G. Grievance representatives. The employee has a right to a representative of their choice during the grievance procedure, including during informal resolution efforts. The employee and representative, if a state employee, shall be allowed a reasonable period of time during normal work hours, without loss of pay and with reasonable notice to the supervisor, for preparation and presentation of the grievance.
- H. Employer representatives for Steps 1 and 2 must forward copies of all grievances filed and decisions rendered as soon as they are received by and sent to the grievant. Copies of all documentation associated with the grievance must be included (e.g. notes from meeting, evidence provided by grievant, correspondence regarding waivers, etc.).